UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,560	05/29/2001	Giorgio Gabbrielli	34663/GM/ch	4004

7590 09/09/2004

MODIANO & ASSOCIATI
Via Meravigli, 16
Milano, 20123
ITALY

EXAMINER	
SALVATORE, LYNDA	
ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/865,560	GABBRIELLI, GIORGIO
	Examiner	Art Unit
	Lynda M Salvatore	1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12-23* is/are pending in the application.

4a) Of the above claim(s) *1-11* is/are withdrawn from consideration.

5)☒ Claim(s) *22 and 23* is/are allowed.

6)☒ Claim(s) *12,13 and 15-20* is/are rejected.

7)☐ Claim(s) *14 and 21* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's amendment and accompanying remarks filed 06/23/04 have been fully considered and entered. Claims 1-11 have been withdrawn, claims 12,19, and 21 have been amended and new claims 22-23 have been added as requested. Applicant's amendment to claims 19 and 21 are found sufficient to overcome the 35 U.S.C. 112, second paragraph rejections set forth in sections 3-6 of the last Office Action. As such, these rejections are hereby withdrawn. Applicant's amendment to claim 12 is found sufficient to overcome the anticipation and obviousness rejections set forth in sections 7-13 of the last Office Action. As such, these rejections are hereby withdrawn. Specifically, the prior art made of record fails to teach the limitations of providing a fabric-elastomer sandwich such that when subjected to heat and pressure the elastomer flows through the gaps present within the woven fabric to produce separate relief, elastomeric regions alternating on said at least one fabric side with fabric regions that are completely free of elastomer. However, Applicant's amendment's necessitated a new search and upon further consideration of newly amended claim 12 a new ground of rejection is set forth herein below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the

> international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 12,13,15,16 and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Wilke, US 6,210,620.

The patent issued to Wilke teaches manufacturing an elastic mat (Title). The method used to make the mat comprises an upper molding plate (12) and lower molding plate (13), which is provided with a plurality of mold cavities (14) (Figure 1 and Column 3, 11-13). In practice, a cotton open mesh fabric (15) is placed on the mold cavities (14) and plate of rubber is placed over the mesh fabric (15) (Figure 1, Cotton 2, 26-33 and Column 3, 25-30). Wilke teaches that the when molding press is pressed downwardly the rubber penetrates the cotton open mesh fabric to provide a plurality of projections (Column 3, 30-46 and Figures2-4). With regard to claim 13, see figure 3, which clearly illustrates one side of continuous rubber and another having a plurality of projections and relief areas. With regard to claim 20, the projections and relief areas provide a surface of discontinuous rubber, which would inherently provide the claimed high elasticity. Applicant is invited to evidence otherwise.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilke, US 6,210,620.

Wilke fails to teach the thickness of the separate elastomer regions, however, it is the position of the Examiner that it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the elastomer projections or regions with a suitable thickness as a function of intended end use. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233

Allowable Subject Matter

6. Claims 14 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Specifically the prior art made of record fails to teach or fairly suggest providing elastomeric regions on both side of the woven fabric or the addition of an osmotic membrane to provide breathable/impermeable properties to the fabric. An updated art search did not produce any substantial art for which to base a rejection and presently there is no motivation to combine references to form an obvious type rejection.

7. Claims 22-23 are found allowable over the prior art made of record. Specifically the prior art fails to teach or fairly suggest a fabric comprising elastomeric regions/projections on one surface side and wherein the second, opposite side of the fabric is completely free of elastomer. With regard to claim 23, the prior art fails to teach providing a separation layer interposed between the elastomer layer and the second side of the fabric, wherein the separation layer is adapted to break selectively to allow the elastomer to flow through and form the separate elastomer regions. An updated art search

did not produce any substantial art for which to base a rejection and presently there is no motivation to combine references to form an obvious type rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 4,696,429

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 2, 2004
ls

CHERYL A. JUSKA
PRIMARY EXAMINER